

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

Antonio Wright,	:	
	:	
Petitioner(s),	:	
	:	Case Number: 1:12cv121
vs.	:	
	:	Chief Judge Susan J. Dlott
Warden, Lebanon Correctional Institution,	:	
	:	
Respondent(s).	:	

ORDER

The Court has reviewed the Report and Recommendation of United States Magistrate Judge J. Gregory Wehrman filed on June 19, 2013 (Doc. 13), to whom this case was referred pursuant to 28 U.S.C. §636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) expired July 8, 2013, hereby ADOPTS said Report and Recommendation.

Accordingly, petitioner's petition for a writ of habeas corpus pursuant to 28 U.S.C. §2254 (Doc. 1) is **DENIED** with prejudice.

A certificate of appealability will not issue with respect to the claims alleged in Grounds One and Three of the petition, which this Court has concluded are waived and thus procedurally barred from review, because under the first of the applicable two-part standard enunciated in *Slack v. McDaniel*, 529 U.S. 473, 484-85 (2000), "jurists of reason" will not find it debatable whether this Court is correct in its procedural ruling. A certificate of appealability will not issue with respect to the non-defaulted claim alleged in Ground Two of the petition in the absence of a substantial showing that petitioner has stated a "viable claim of the denial of a constitutional right" or that the issues presented are "adequate to deserve encouragement to proceed further."

*See Slack*, 529 U.S. at 475 (citing *Barefoot v. Estelle*, 463 U.S. 880, 893 & n.4 (1983)); *see also* 28 U.S.C. §2253 ( c ); Fed. R. App. P. 22(b).

With respect to any application by petitioner to proceed on appeal *in forma pauperis*, the Court will certify pursuant to 28 U.S.C. §1915(a)(3) that an appeal of any Order adopting the Report and Recommendation will not be taken in “good faith,” and, therefore, **DENIES** petitioner leave to appeal *in forma pauperis* upon a showing of financial necessity. *See* Fed. R. App. P. 24(a); *Kincade v. Sparkman*, 117 F.3d 949, 952 (6<sup>th</sup> Cir. 1997).

IT IS SO ORDERED.

s/Susan J. Dlott  
Chief Judge Susan J. Dlott  
United States District Court